

From: "Carl Johnston" <CJOHNSTO@osmre.gov>
To: <DARONHADDOCK@utah.gov>
Date: 11/17/03 1:03PM
Subject: Mine Plan Determination - Emery Deep

Attached is OSM's final decision regarding the need for a Mining Plan Modification for the above subject. A signed copy will be sent to you in today's mail.

In accordance with the Federal regulations under 30 CFR 740.13(d), other Federal agencies that may have an interest in, or jurisdiction over, the above subject operation have also been notified of OSM's decision electronically.

No responses to this transmittal are necessary.

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UT-0005

November 17, 2003

Utah Division of Oil, Gas, & Mining
Coal Regulatory Program
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

RE: Consolidation Coal Company - "Emery Deep" Mine - Application for a Permit Revision,
Chapter X Change

Dear Sir or Madam:

This in response to the Utah Division of Oil, Gas, & Mining's (UT-DOGM) November 13, 2003, request for a decision, under 30 CFR 947.30, whether the above subject permit revision constitutes a mining plan modification.

Mining plan approvals by the Secretary of the Interior are required under the Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.* before coal mining can occur on Federal lands. This letter serves to document OSM's determination whether or not a mining plan approval from the Secretary is required for the above permitting action.

OSM's review of the Application for a Permit Revision, Chapter X Change, has determined that it proposes to add new information to Part A, "Cultural Resources" of Chapter X, associated with the archaeological survey of the 4th East Portal Site, at the Emery Deep mine, Utah State permit C/015/015, and move that information to a confidential file.

Based on a review of the activities associated with the permit revision, OSM has determined that the proposal does not meet the requirements of 30 CFR 746.11(a) and 746.18(d). Therefore, the proposed permit revision does not constitute a mining plan action requiring Secretarial approval.

OSM's decision was based solely upon the Federal regulations under 30 CFR PART 746 and not the technical aspects of the revision application itself. Consequently, OSM's decision does not relieve UT-DOGM from coordinating the review and approval of the Application for a Permit Revision, Chapter X Change with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the November 13, 2003 request to the Bureau of Land Management and the U.S. Forest Service for their review and comment.

In an electronic transmittal dated November 14, 2003, the U.S. Forest service stated it had no jurisdiction over or comments on the application.

In an electronic transmittal dated November 17, 2003 the Bureau of Land Management stated that, in their opinion, the Application for a Permit Revision, Chapter X Change, does not represent a change that would require a Mining Plan Modification.

Please notify the applicant of our decision on this matter.

Should you have any questions regarding this letter or approval, please contact Carl R. Johnston, Utah Federal Lands coordinator, at (303) 844-1400, extension 1500.

Sincerely,

Ranvir Singh
Manager, Northwest Branch

cc: Denver Field Division